

REMARKS

Claims 27 and 28 are objected to as being duplicate claims. However, claim 27 recites “sending the indication to the MS via the serving cell” while claim 28 recites “sending the indication to the MS via a serving BS.” Although these claims are similar, the applicant submits that a serving BS and the serving cell may not refer to the same entity, depending on the embodiment. Thus, reconsideration of the objection is requested.

Regarding the objection to claim 30 and the Examiner’s request for “fundicated” to be replaced with “dedicated,” the applicant also requests reconsideration. The applicant simply uses the term “fundicated” to follow the naming convention used in the 3GPP2 and IS-2000 standards specifications. It is not a term that the applicants have coined themselves nor a typographical error that requires correction.

Claims 1-13 and 15-52 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Kumar et al. (U.S. Patent 6,757,270, hereinafter “Kumar”). Respectfully disagreeing with these rejections, reconsideration is requested by the applicant.

Regarding the rejection of independent claims 1, 15, 33, 42 and 48, the Examiner cites Kumar column 15 line 39 – column 16 line 20, which reads (emphasis added):

FIG. 6 shows a representation of a forward-link primary transfer scenario. **Primary transfer begins when the mobile uses a PSMM message to report to the primary leg that another (i.e., a secondary) leg has the strongest pilot signal by some margin.** The old primary sends a flow control ON message to the FSD function (to prevent the FS/RLP function from sending new data to the primary during the primary transfer operation) and sends a primary transfer message (PD_PRIM_XFER) to the new primary. The PD_PRIM_XFER message contains the reg_ID and the reverse-link current active set for the mobile. The new primary then sends messages informing the FS/RLP function of its status as the new primary (FS_NEW_PRIMARY) and instructing the FS/RLP function to turn flow control OFF (so any new data is now sent to the new primary by the FS/RLP function). **In addition, the old primary sends a CAM message to the mobile to instruct the mobile to transfer its operations into the suspended (tracking) state, listening on the forward common control channel (F-CCCH) for transmissions from the new primary. The mobile will then remain in the suspended (tracking) state, until new data is forwarded by the FS/RLP function to the new primary, at which**

time the new primary will assign an appropriate channel, inform the mobile of the channel assignment via a quick CAM/SCAM message, and begin data transfer on that assigned channel.

If a forward burst is in progress when the old primary receives the PSMM message from the mobile, the old primary may continue the burst until it ends or terminate the burst and have it restart at the new primary. This is accomplished as follows. The old primary includes the RLP segment sequence number at the head of the new data queue (i.e., the roll-back sequence number) in the PD_PRIM_XFER message sent to the FS/RLP function. Data left in the retransmission queue, as well as any data in the new data queue, at the old primary leg is assumed to be discarded. The retransmission queue should be small since retransmissions have priority. **The old primary informs the mobile that the current burst is terminated and instructs the mobile to transfer to the suspended (tracking) state, listening to the forward common control channel (F-CCCH) for the new primary.** The new primary sends a new primary message (FS_NEW_PRIMARY) to the FSD function, indicating its address and the roll-back sequence number, and turning flow control OFF. The FSD function sends all new data starting from the roll-back sequence number to the new primary leg. The new primary, when it discovers the backlog, performs a quick CAM or quick SCAM to re-start the burst to the mobile.

In general, Kumar, as cited, clearly describes a network-instructed handover. A forward-link primary transfer begins when the mobile uses a PSMM message to report to the primary leg that another (i.e., a secondary) leg has the strongest pilot signal by some margin. The network then signals the mobile regarding whether the current burst is terminated and whether to transfer to the suspended (tracking) state and listen to the forward common control channel (F-CCCH) for the new primary. In accordance with its instructions, the mobile may then remain in the suspended (tracking) state, until new data is forwarded to the new primary, at which time the new primary will assign an appropriate channel, inform the mobile of the channel assignment via a quick CAM/SCAM message, and begin data transfer on that assigned channel. Thus, the mobile reports pilot signal strengths to the network and then relies on the network for instructions on whether a handover / primary transfer is going to occur and how it will occur (i.e., whether the current burst is terminated or not and whether to transfer to the suspended (tracking) state to listen to the forward common control channel (F-CCCH) for the new primary).

In contrast to network-instructed handover, the present application describes embodiments that employ cell selection where a mobile selects a target cell for forward link service, informs the serving cell that it is moving to the new target for forward link

service at a certain time, and then autonomously moves to the target cell for forward link service. See e.g., application page 2, second paragraph. The applicant submits that this fundamental difference between cell selection and network-instructed handover is also captured in the claims.

For example, claim 1 recites (emphasis added) “indicating, by the cell, to an MS that the cell will not provide data transmission service to the MS via the forward link **in order to force the MS to select another cell** for at least the forward link data transmission service.” The applicant submits that Kumar, as cited, does not teach or suggest forcing the MS to select another cell, since the Kumar mobile is not selecting a cell but rather merely reporting signal strengths.

In addition, claim 15 recites (emphasis added) “**receiving an indication that the MS intends to switch** from a forward link of a serving cell to a forward link of a target cell for data transmission service... **sending an indication to the MS that the target cell is presently unavailable** to provide data transmission service to the MS via the forward link of the target cell.” Claim 42 recites (emphasis added) “A base station (BS) comprising: a base transceiver system (BTS)... [and] **a base site controller (BSC)**, communicatively coupled to the BTS, **to receive, via the BTS, an indication that the MS intends to switch** from the forward link to a forward link of a target cell for data transmission service...**and to send, via the BTS, an indication to the MS that the target cell is presently unavailable** to provide data transmission service to the MS via the forward link of the target cell.” The applicant submits that Kumar, as cited, does not teach or suggest receiving an indication that the MS intends to switch to a forward link of a target cell nor does it teach or suggest sending an indication to the MS that the target cell is presently unavailable to provide data transmission service to the MS via the forward link of the target cell.

Furthermore, claim 33 recites (emphasis added) “**determining, by the MS, to switch to a target cell** for data transmission service via a forward link of the target cell; transmitting, by the MS, an indication of an MS intent to switch to the target cell; **receiving, by the MS, an indication that the target cell is presently unavailable** to provide data transmission service to the MS via the forward link of the target cell.” Claim 48 recites (emphasis added) “A mobile station (MS) comprising: a transceiver; a

computer processor...**to determine to switch from the serving cell to a target cell** for data transmission service via a forward link of the target cell, to transmit, via the transceiver, an indication of the MS's intent to switch to the target cell, and **to receive, via the transceiver, an indication that the target cell is presently unavailable** to provide data transmission service to the MS via the forward link of the target cell." The applicant submits that Kumar, as cited, does not teach or suggest the mobile determining to switch to a target cell for data transmission service via a forward link of the target cell, since the Kumar mobile is not selecting a cell but rather merely reporting signal strengths. Also, the applicant submits that Kumar, as cited, does not teach or suggest receiving, by the MS, an indication that the target cell is presently unavailable to provide data transmission service to the MS via the forward link of the target cell.

Since none of the references cited, either independently or in combination, teach all of the limitations of any of independent claims 1, 15, 33, 42 or 48, or therefore, all the limitations of their respective dependent claims, it is asserted that neither anticipation nor a *prima facie* case for obviousness has been shown. No remaining grounds for rejection or objection being given, the claims in their present form are asserted to be patentable over the prior art of record and in condition for allowance. Therefore, allowance and issuance of this case is earnestly solicited.

The Examiner is invited to contact the undersigned, if such communication would advance the prosecution of the present application. Lastly, please charge any additional fees (including extension of time fees) or credit overpayment to Deposit Account No. **502117 -- Motorola, Inc.**

Respectfully submitted,

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